

## NATURALIZATION

*Treaty and protocol signed at Munich May 26, 1868*

*Ratified by Bavaria June 20, 1868*

*Senate advice and consent to ratification June 29, 1868*

*Ratified by the President of the United States July 17, 1868*

*Ratifications exchanged at Munich September 18, 1868*

*Entered into force September 18, 1868*

*Proclaimed by the President of the United States October 8, 1868*

*Obsolete*

15 Stat. 661; Treaty Series 18

### TREATY

His Majesty the King of Bavaria and the President of the United States of America, led by the wish to regulate the citizenship of those persons who emigrate from Bavaria to the United States of America, and from the United States of America to the territory of the Kingdom of Bavaria, have resolved to treat on this subject, and have, for that purpose, appointed Plenipotentiaries to conclude a convention, that is to say: His Majesty the King of Bavaria, Dr. Otto, Baron of Voelderndor, Councillor of Ministry, and the President of the United States of America, George Bancroft, Envoy Extraordinary and Minister Plenipotentiary; who have agreed to and signed the following articles:

#### ARTICLE I <sup>1</sup>

Citizens of Bavaria, who have become, or shall become, naturalized citizens of the United States of America, and shall have resided uninterruptedly within the United States five years, shall be held by Bavaria to be American citizens, and shall be treated as such.

Reciprocally, citizens of the United States of America who have become, or shall become, naturalized citizens of Bavaria, and shall have resided uninterruptedly within Bavaria five years, shall be held by the United States to be Bavarian citizens, and shall be treated as such.

The declaration of an intention to become a citizen of the one or the other country has not for either party the effect of naturalization.

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<sup>1</sup> For observations relating to arts. I, II, and IV, see protocol, p. 15.

ARTICLE II <sup>1</sup>

A naturalized citizen of the one party on return to the territory of the other party remains liable to trial and punishment for an action punishable by the laws of his original country, and committed before his emigration, saving always the limitation established by the laws of his original country, or any other remission of liability to punishment.

## ARTICLE III

The convention for the mutual delivery of criminals, fugitives from justice, in certain cases, concluded between the United States on the one part, and Bavaria on the other part, the twelfth day of September, one thousand eight hundred and fifty-three,<sup>2</sup> remains in force without change.

ARTICLE IV <sup>1</sup>

If a Bavarian, naturalized in America, renews his residence in Bavaria, without the intent to return to America, he shall be held to have renounced his naturalization in the United States.

Reciprocally, if an American, naturalized in Bavaria, renews his residence in the United States, without the intent to return to Bavaria, he shall be held to have renounced his naturalization in Bavaria.

The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country.

## ARTICLE V

The present convention shall go into effect immediately on the exchange of ratifications, and shall continue in force for ten years. If neither party shall have given to the other six months' previous notice of its intention then to terminate the same, it shall further remain in force until the end of twelve months after either of the contracting parties shall have given notice to the other of such intention.

## ARTICLE VI

The present convention shall be ratified by his Majesty the King of Bavaria, and by the President, by and with the advice and consent of the Senate of the United States, and the ratifications shall be exchanged at Munich within twelve months from the date hereof.

In faith whereof the Plenipotentiaries have signed and sealed this convention.

MUNICH, *the 26th May, 1868.*

GEO. BANCROFT

[SEAL]

DR. OTTO FHR. VON VÖLDERNDORFF

[SEAL]

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<sup>2</sup> TS 17, *ante*, p. 10.

## PROTOCOL

DONE AT MUNICH THE 26TH MAY, 1868

The undersigned met to-day to sign the treaty agreed upon in conformity with their respective full powers, relating to the citizenship of those persons who emigrate from Bavaria to the United States of America, and from the United States of America to Bavaria; on which occasion the following observations, more exactly defining and explaining the contents of this treaty, were entered in the following protocol:

## I. RELATING TO THE FIRST ARTICLE OF THE TREATY

1. Inasmuch as the copulative "and" is made use of, it follows, of course, that not the naturalization alone, but an additional five years' uninterrupted residence is required, before a person can be regarded as coming within the treaty; but it is by no means requisite that the five years' residence should take place after the naturalization. It is hereby further understood that if a Bavarian has been discharged from his Bavarian indigene, or on the other side, if an American has been discharged from his American citizenship in the manner legally prescribed by the government of his original country, and then acquires naturalization in the other country in a rightful and perfectly valid manner, then an additional five years' residence shall no longer be required, but a person so naturalized shall from the moment of his naturalization be held and treated as a Bavarian, and reciprocally as an American citizen.

2. The words "resided uninterruptedly" are obviously to be understood, not of a continual bodily presence, but in the legal sense; and therefore a transient absence, a journey, or the like, by no means interrupts the period of five years contemplated by the first article.

## II. RELATING TO THE SECOND ARTICLE OF THE TREATY

1. It is expressly agreed that a person who, under the first article, is to be held as an adopted citizen of the other state, on his return to his original country cannot be made punishable for the act of emigration itself, not even though at a later day he should have lost his adopted citizenship.

## III. RELATING TO ARTICLE FOUR OF THE TREATY

1. It is agreed on both sides, that the regulative powers granted to the two governments respectively, by their laws for protection against resident aliens, whose residence endangers peace and order in the land, are not affected by the treaty. In particular the regulation contained in the second clause of the tenth article of the Bavarian military law of the 30th of January, 1868, according to which Bavarians emigrating from Bavaria before the fulfilment of their military duty cannot be admitted to a permanent residence in the

land till they shall have become 32 years old, is not affected by the treaty. But yet it is established and agreed, that by the expression "permanent residence" used in the said article, the above described emigrants are not forbidden to undertake a journey to Bavaria for a less period of time and for definite purposes, and the royal Bavarian government moreover cheerfully declares itself ready, in all cases in which the emigration has plainly taken place in good faith, to allow a mild rule in practice to be adopted.

2. It is hereby agreed that when a Bavarian naturalized in America, and reciprocally an American naturalized in Bavaria, takes up his abode once more in his original country without the intention of return to the country of his adoption, he does by no means thereby recover his former citizenship; on the contrary, in so far as it relates to Bavaria, it depends on his Majesty the King whether he will or will not in that event grant the Bavarian citizenship anew.

The article fourth shall accordingly have only this meaning, that the adopted country of the emigrant cannot prevent him from acquiring once more his former citizenship; but not that the state to which the emigrant originally belonged is bound to restore him at once to his original relation.

On the contrary, the citizen naturalized abroad must first apply to be received back into his original country in the manner prescribed by its laws and regulations, and must acquire citizenship anew, exactly like any other alien.

But yet it is left to his own free choice, whether he will adopt that course or will preserve the citizenship of the country of his adoption.

The two Plenipotentiaries give each other mutually the assurance that their respective governments in ratifying this treaty will also regard as approved and will maintain the agreements and explanations contained in the present protocol, without any further formal ratification of the same.

GEO. BANCROFT

[SEAL]

DR. OTTO FHR. VON VÖLDERNDORFF

[SEAL]